

Etzig, Trista

From: julianheron@msn.com
Sent: Monday, May 22, 2006 12:07 PM
To: Scblockgrants,
Subject: Comments on proposed rule
Attachments: ATTACHMENT.TXT

Mr. Lloyd C. Day
Administrator
Agricultural Marketing Service
USDA
1400 Independence Avenue, SW
Washington, DC 20250

C/O Docket Clerk
Fruit and Vegetable Programs
AMS

Dear Mr. Day:

Blue Diamond Growers, a nonprofit farmer owned cooperative, wishes to comment on the proposed rule published in the Federal Register on April 20, 2006. 71 FR 20353. Blue Diamond Growers represents the majority of almond growers in the state of California. 100% of U.S. almond production is located in California.

Almonds are the largest export item from California and are shipped to over 100 countries worldwide. This represents over 70% of total U.S. production. Nevertheless, the U.S. represents the largest market for California almonds.

Almonds are tree nuts and, therefore, covered by the definition set forth at section 1290.2 (f). This means that these comments are from a producer interest of a product specifically covered by the specialty crop block grant program.

The first item to be addressed is section 1290.4 (a). This proposed rule places the word, “fresh” in front of “specialty crop projects”. The word “fresh” is not defined in the proposed regulations. Since it is unnecessary, discriminatory, and extraneous, it is recommended that it be deleted since it serves no useful purpose.

Alternatively, “fresh” should be defined in section 1290.2 so as to include all of the items defined as specialty crops in 1290.2 (f). Almonds are considered and sold as a fresh product whether in natural or roasted form. All almonds should be included within the definition of “fresh”. To do otherwise would be to disregard the definition set forth at 1290.2 (f). It is not believed that AMS intended to arbitrarily discriminate between specialty crops so as to give some a distinct advantage over others. This would be both unfair and illegal.

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Section 1290.4 (a) also uses the word “competitiveness”. This word is not defined. The legislation intended for each state to use the grant funds in a way that would help the specialty crop producers in each particular state. It is not possible to come up with a definition of “competitiveness” for this regulation since it varies so widely based on geographic location and individual commodity. This is best left to the states. Since it is believed that AMS did not intend to substitute its judgment for each state, it is suggested that the word “competitiveness” be deleted and the word “marketing” be substituted in its place. AMS has expertise in marketing so that it would be more consistent with AMS’ expertise.

The entire proposed rule needs to be revised so that it becomes consistent with granting funds to individual states. At present, it appears to confuse state applicants with individual applicants. Since the legislation does not give AMS jurisdiction over individual applicants to the states, AMS’ rule must necessarily be restricted to the individual states. In this respect, it is unlikely that the states will be able to give significant detail on the use of the funds until they actually receive the funds and begin to work with producer groups. As the regulation is currently published, it implies that the states should obtain applications from individual producer groups prior to applying for grant funds to which they are entitled under the specialty crop block grant program. It is certain that AMS is not trying to change by regulation the clear intention of the legislation.

If you would like any additional information, please do not hesitate to request it and it will be furnished.

Very truly yours,

Julian B. Heron

Counsel
for
Blue Diamond Growers

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